

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Hartig, M. et al. Examiner: James Henry Alstrum Acevedo

Serial No.: 10/736,264 Group Art Unit: 1616

Filed: December 15, 2003 Docket: 1/1439

Customer No.: 28501 Confirmation No.: 3847

For: POWDERED MEDICAMENTS CONTAINING A TIOTROPIUM SALT AND
SALMETEROL XINAFOATE

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO RESTRICTION REQUIREMENT

Sir:

This Reply is in response to the February 6, 2006 Office Action issued in the above-identified application. In that Office Action, a one month shortened statutory period was set for response. Applicants hereby petition for the necessary one-month extension of time under 37 C.F.R. § 1.136 to respond to that action and note that the fee required under 37 C.F.R. § 1.17(a)(1) in connection with this Reply will be paid during electronic filing via the Revenue Accounting and Management System.

In the Office Action, the Examiner imposed a two-way restriction in the present application under 35 U.S.C. §121:

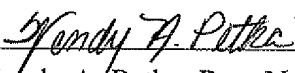
- I. Claims 1-14 and 17-20, drawn to compositions comprising tiotropium and salmeterol xinafoate; and
- II. Claims 15-16, drawn to a kit comprising a capsule containing a pharmaceutical composition and an inhaler.

The Examiner alleged that, although the claims of the present application are related as combination and subcombination, the inventions are distinct because the combination as claimed does not require the particulars of the subcombination.

In response to the restriction requirement, applicants elect the subject matter of Group I (claims 1-14 and 17-20) for substantive examination on the merits.

Applicants elect Group I expressly without waiver of their right to file for and obtain claims directed to the non-elected subject matter of Group II in a divisional or continuing application claiming priority and benefit from this application under 35 U.S.C. § 120. Applicants also respectfully submit that all the pending claims are allowable and therefore solicit a Notice of Allowance for all of the pending claims. If the Examiner feels that a telephone interview would be helpful in advancing prosecution of this application, the Examiner is invited to contact the attorney below.

Respectfully submitted,


Wendy A. Petka, Reg. No. 53,459
Attorney for Applicants

BOEHRINGER INGELHEIM CORPORATION
Patent Department
900 Ridgebury Road
P.O. Box 368
Ridgefield, CT 06877
Telephone: (203) 791-6614
Facsimile: (203) 798-4408